



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2405

AUG 28 1989

Ref: 8WM-C

Honorable Leslie J. Shurtz
Mayor, City of Broomfield
Number Six Garden Office Center
Broomfield, Colorado 80020

Re: DOE - Rocky Flats Plant
NPDES Permit CO-0001333

Dear Mayor Shurtz:

We have been requested to respond to your March 22, 1989 letter to Mr. William J. Canary, Jr., Special Assistant to the President. Our comments are limited to surface water and wetlands issues, as it is our understanding that Nat Miullo talked to you in May about EPA's activities concerning hazardous wastes at the Rocky Flats Plant. Since early June there have been several telephone conversations and meetings between various City of Broomfield officials and EPA Region VIII staff. We are well aware of the City's concerns about the possible impact of the Rocky Flats Plant on water quality in Great Western Reservoir.

We believe that the renewal NPDES permit should adequately address the surface water concerns with the exception of radioactivity. When EPA issued the first NPDES permit for the Rocky Flats Plant, the permit did not contain any limitations on radioactive materials. The decision not to include such limitations was based on the advice of EPA attorneys that radioactive substances subject to regulation under the Atomic Energy Act of 1954, as amended, could not be regulated through the NPDES permit program. EPA's view was challenged by the Colorado Public Interest Research Group (CPIRG) in court. However, in 1976, the U.S. Supreme Court upheld EPA's position (Train v. CPIRG, Inc. 426 U.S. 1 (1976)).

The issue of a permanent diversion structure around Great Western Reservoir is primarily between the City and the Department of Energy. EPA's direct involvement would be limited to evaluating the affect of the project on wetlands and reviewing any permit which might be required under Section 404 of the Clean Water Act (i.e., dredge and fill permit). This was discussed at the June meeting concerning the temporary diversion ditch around Great Western Reservoir.

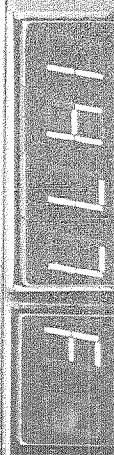


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If you have any questions concerning the NPDES permit,
please contact Bob Shankland at 293-1627. Questions concerning
wetlands and Section 404 permits should be directed to Brad
Miller at 293-1583.

Sincerely,
Original Signed By
ROGER FRENETTE

Max H. Dodson, Director
Water Management Division

cc: Paul Frohardt, Colorado Dept. Health
Ed Goldberg, DOE - Rocky Flats Plant

FCD: August 24, 1989: Shankland: CO01333L.728

bc: Eric Johnson (80EA)
Nat Miullo (8HWM-RI)
Lou Johnson (8HWM-RI)
Brad Miller (8WMD-SP)
Judy Bruch (CDH, Rocky Flats Project)

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